IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

ESTATE DUTY REFERENCE No 2 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

CONTROLLER OF ESTATE DUTY

Versus

GORDHANBHAI H PATEL

Appearance:

1. ESTATE DUTY REFERENCE No. 2 of 1986
MRBB NAYAK FOR MR RP BHATT for Applicant.
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 26/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1. At the instance of the revenue, the Income Tax Appellate Tribunal , Ahmedabad Bench "A" has referred to this Court the following question of law for its opinion under the provisions of section 64(1) of Estate Duty Act,1953.

"Whether on the facts and circumstances and the legal provisions, the Tribunal was right in holding that the amount of Rs.40,000/- claimed for the marriage expenses should be allowed as a deduction ?"

2. We have heard learned Advocate Mr.B.B.Nayak appearing for the revenue and have also perused the order passed by the Tribunal. No body has appeared for the respondent though the respondent has been served.

3. While allowing the deduction, the Tribunal has observed in the order that in view of the fact that two views were possible in the instant case, the Tribunal would like to prefer the view which was in favour of the assessee and therefore, the Tribunal had allowed the deduction.

4. We are in agreement with the view which has been expressed by the Tribunal especially when the Hon'ble Supreme Court has also observed in the case of C.I.T. vs. J.K.HOSIERY FACTORY, 159 I.T.R.85 that where two interpretations are possible, the Court should accept the interpretation which is favourable to the assessee.

5. In view of the above fact, in our opinion, the Tribunal was right in holding that the amount of Rs.40,000/- claimed for the marriage expenses should be allowed as deduction. We, therefore, answer the question in the affirmative i.e. in favour of the assessee and against the revenue.

6. The Reference thus stands disposed of accordingly with no order as to costs.

Sd/- Sd/-
(A.R.Dave, J) (D.A.Mehta, J)

m.m.bhatt